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07/26/2010

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EXAMINER

SEVERSON, RYAN J

ART UNIT

PAPER NUMBER

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitagawa et al. (JP 64-32857) in view of Rhodes (5,122,154) and Lunn (5,476,506).** Kitagawa et al. disclose a bifurcated trunk liner (see figure 6) having a generally cylindrical body portion (A) and two leg portions (C). Each leg portion defines a leg opening (see figure 3). The leg portions abut one another and are secured to one another along their entire lengths (at B, see figure 1).

3. However, Kitagawa et al. fail to disclose a trunk component surrounding the trunk liner. Attention is drawn to Rhodes, who teaches trunk components (30) surrounding a liner (28) to provide structural strength to the liner to maintain it in an open configuration. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included a trunk component on the trunk liner of Kitagawa et al. as suggested by Rhodes to provide the same advantages.

4. Further, the combination of Kitagawa et al. and Rhodes fails to disclose cylindrical supportive leg components placed within the liner leg components. Attention is drawn to Lunn, who teaches the use of supportive stent components (36 and 38) placed within, but not connected to, a graft component with their ends protruding from

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the graft (see figure 4) to secure and seal the graft relative to the vessel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used supportive leg components in the liner leg components of the combination of Kitagawa et al. and Rhodes in the manner taught by Lunn to ensure the leg components are secured and sealed relative to the vessel.

5. Examiner notes with regard to Lunn, in the embodiment relied upon (i.e. figure 4), the stents appear to be deployed into the graft after the graft is placed at the treatment site (see column 4, lines 26-32).

6. Regarding claim 42, the combination of Kitagawa et al., Rhodes, and Lunn does not disclose the supportive components are self-expanding. However, making stent components self-expanding is a well-known art-recognized alternative equivalent to making stent components balloon expandable. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the stent components of the combination self-expanding instead of balloon expanding, as is well-known in the art. Since applicant failed to traverse examiner's assertion (made in the non-final of 11/9/2009), the common knowledge or well-known in the art statement is taken to be admitted prior art (MPEP 2144.03 C).

### ***Response to Arguments***

7. Applicant's arguments with respect to claim 40 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

8. Claims 1-30 are allowed in this reissue application.

9. Claim 59 is objected to as being dependent upon a rejected base claim.

Examiner notes that claim 59 defines over the prior art, but can not be rewritten in independent form because this reissue application would then no longer be correcting an identified error (more detailed explanation for this situation can be found in the Non-Final Rejection of 3/15/2010) and would not be allowed under 35 USC 251.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. SEVERSON whose telephone number is (571)272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan J Severson/  
Examiner, Art Unit 3731  
7/23/10

/Anhtuan T. Nguyen/  
Supervisory Patent Examiner, Art Unit 3731  
7/24/10